

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2019/2020

UIL 2722 ISLAMIC LAW II

(All Sections/ Groups)

11 MARCH 2020

Reading Time: 2.30 pm - 2.45pm

(15 Minutes)

Answering Time: 2.45 pm – 5.45 pm

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 pages with 5 Questions only.
3. Attempt **FOUR** out of **FIVE** questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of:
 - i. Al-Quran Translation

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A (COMPULSORY) – CHOOSE ONE (1) QUESTION ONLY**QUESTION 1**

Mr. Adam has a daughter named Asiah. He would like to throw a party for celebrating Asiah's 19 years old birthday. Asiah invited her boyfriend, Badrul who studied at the same college to her birthday party. At the night of the party, Badrul sneaked into Mr. Adam's room and stole all the jewelries.

Later, Asiah and Badrul got drunk and they had sexual intercourse in Asiah's room. They were caught by Mr. Adam and his friends who also attended the party. They found two bottles of Carlsberg in Asiah's bedroom. Asiah in her defence claimed that she has been raped by Badrul since she fell asleep and never consented to have a sexual intercourse with him. Badrul was sent to the police station for investigation. Asiah was pregnant 3 weeks later.

- i) Assess the criminal liabilities for Badrul according to Islamic criminal law;
(15 marks)
- ii) Explain the type of Islamic legal maxim: "act is determined according to intention" to establish Asiah's defence. Support your answer with relevant authorities.

(10 marks)

(Total 25 marks)

OR

QUESTION 2

Ashraf Muslim "Ashraf" passed away three weeks ago leaving the following estates: Maybank and CIMB bank savings, 5 acres land in Bukit Katil, two bungalow houses in Bukit Cina and Bandar Iskandar, one Mercedes 2015 C-class, a Humvee, a 1980 Suzuki motorcycle, a tobacco company trust fund worth of RM1 million, a dower to Ashraf Muslim's second marriage and his pension money. Ashraf had made a will which reads as follows:

"This is my last will of Ashraf Muslim of Bukit Beruang:

- 1. I appoint my good friends Abang Abu Bakar and Mr. Suresh to be the executors and trustees of this will;***
- 2. I leave half of my estate to Langit Terbelah Dance Club and Two Café Bistro Bar;***

Continued

3. *I leave the balance of the property to my family i.e. my two wives, Nur Alia and Syamila, my sons, Izwan and Azwan, and my daughter, Bella of equal shares."*

Ashraf Muslim

Ashraf Muslim, Dated 17 December 2019.

In the presence of Mr. Naim, Mr. Danish and Ms. Salina (Tetuan MDS)

However, Bella has been missing for almost a year, believing to follow his boyfriend (Jason) upon objection from his parents to Jason's marriage proposal.

- i) Discuss the validity of the will made and properties left by Ashraf Muslim. Cite relevant authorities and reasons in your answer.

(20 marks)

- ii) After a week Ashraf Muslim's will has been read to his family, suddenly Maimunah came to Tetuan MDS and claimed she is Ashraf Muslim's third wife. She objected to the will made by late Ashraf Muslim and brought a case against the said will to the Syariah Court. Explain the type of Islamic legal maxim that "certainty cannot be removed by doubt" to establish Tetuan MDS's defence. Support your answer with relevant authorities.

(5 marks)

(Total 25 marks)

PART B – ANSWER ALL QUESTIONS

QUESTION 3

Selamat is a security guard working for with A&T Security. A&T Security is engaged to guard a music studio which is full of musical instruments belonging to "BTS", a well-known pop group in the country. As per the agreement, A&T Security is responsible to keep the studio premise under the surveillance from 12am until 8.00am in the morning.

"BTS" had their daily training sessions in the studio starting from 9.00 a.m. in the morning until midnight. After the training sessions, the studio is locked by the security guard on duty. Apart from the members of the pop group, the key to the studio is also kept by Hyori, the manager, and Ja Sook, the composer of the group. Every morning, at 7.00 a.m., the security guard on duty will open the studio to enable Kamarul, a cleaner, to tidy up the studio, before other staffs arrive for work at 8.00 a.m.

Continued

One morning, a few musical instruments were reported missing from the studio. Police investigations found that the instruments went missing while Selamat was on duty. The police discovered some of the instruments in Selamat's flat. The police also discovered some of the instruments in Kamarul's house. The value of the musical instruments are estimated at RM17,000.00.

Since few musical instruments were missing the manager suffered loss and BTS group are not able to perform their performance very well. This situation remained for several months until the manager disbanded BTS group. One of the group BTS members, Nukman who was not satisfied with the decision made by Hyori for disbanded the group. Nukman lost his followers in social media. He has received lots of negative comments and humiliating words from society. As a result, he suffered depression and plan to seek for revenge from Hyori. One day, he bumped into Hyori at a street. After struggling for several times, Nukman hit Hyori over the head with iron a bar. Hyori collapsed and died instantly. Nukman ran away and hid at his house until the police arrested him.

Discuss any criminal liabilities and defence(s) of Selamat, Kamarul and Nukman in the above situation.

(Total 25 marks)

QUESTION 4

In Malaysia, Islamic Law of Inheritance can be classified into 3 which are Mirath (Faraid), Wills (Wasiyyah) and Hibah (Grants/Gift). Discuss the following; a) concept of Faraid, b) its importance, c) matters or steps to be settled first in Muslim Inheritance Law before an estate's distribution, d) pillars and conditions of Inheritance, e) impediment to Inherit and Rights of Sharers.

[Total 25 marks]

QUESTION 5

Salleh Afifi is a businessman has handwritten his hibah and it includes the following provisions:

"My Hibah made this 24th December 2019 by Salleh Afifi:

- i) I wish Faizal Afifi to pay all my debts;*
- ii) I give RM10,000 to Faizal Afifi in recognition of his kindness and continuing assistance;*

Continued

- iii) *I give RM20,000 to each of the charities referred to in any list placed in an envelope with this will; and*
- iv) *I give the remainder of my estate to my wife, Sarah and my son, Helmi equally.*

Witnessed and signed by: Faizal afifi

Ahmad Nizam

Unfortunately, Salleh Afifi did not sign his name at the foot of the will. He died in January 2020. Faizal Afifi has consulted you for advice. Faizal Afifi informed you that he and Salleh Afifi were brothers. He also informed you that they were sitting next to each other at a dinner in last Aidil Fitri dinner when Salleh Afifi produced document which he was asked to sign. After he had done so, Salleh Afifi put it back in his pocket.

As the dinner was ending, Salleh Afifi approached another person to be his witness. He went to see Ahmad Nizam who was sitting next to their table. Salleh Afifi took the document out of his pocket and Ahmad Nizam signed the document.

Faizal Afifi also informed you that during October 2019 he visited Salleh Afifi at Helmi's house where Helmi look after him, and he produced a sealed envelope marked "Hibah" for Faizal Afifi. Salleh Afifi stayed at Helmi's house until his passing in early December 2019.

After Salleh Afifi's death, Faizal Afifi opened the envelope and found out that it contained Salleh Afifi's hibah, this being the same document that he and Ahmad Nizam had signed at the dinner, and undated list written in Salleh Afifi's handwriting containing the names and addresses of six charity organisations/associations.

As a syarie lawyer:

- i) Whether Hibah made by Salleh Afifi is valid? Determine. (9 marks)
- ii) How Salleh Afifi's estates would be settled and divided according to Islamic Inheritance Law? (8 marks)
- iii) After a post mortem, it was revealed that Salleh Afifi's death was due to several deep slashed at deceased stomach and chest. Helmi was arrested by police as a prime suspect. Is there any possible criminal liabilities and consequences on Helmi with regards to his faraid share? Discuss in your answer. (8 marks)

(Total 25 marks)

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